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KELLI THOMAS

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

KELLI THOMAS

Plaintiff,

v.

ROMOLAND SCHOOL DISTRICT  
(MESA VIEW ELEMENTARY),

Defendant.

CASE NO. 5:23-cv-01460  
Civil Rights

COMPLAINT FOR PRELIMINARY AND  
PERMANENT INJUNCTIVE RELIEF  
AND DAMAGES:

1. Violations of Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq.*)
2. Violation of the California Disabled Persons Act (Cal. Civil Code § 54 *et seq.*)

DEMAND FOR JURY TRIAL

Plaintiff KELLI THOMAS complains of Defendant ROMOLAND SCHOOL DISTRICT (MESA VIEW ELEMENTARY), and alleges as follows:

1. **INTRODUCTION:** On November 15, 2022, disabled Plaintiff, Kelli Thomas, went with her service dog Zoe to Mesa View Elementary located at 27227 Heritage Lake Drive, Menifee, California to attend the Lunch with a Loved One event open to the public for her two siblings (a kindergartener and a fourth grader) that attend the school. When Plaintiff attempted to enter the event through the school's gates, the principal of Mesa View Elementary, Ms. Cyndy Guerrettaz, stopped her and told Plaintiff that dogs are not allowed on campus. Plaintiff tried to

1 explain to Ms. Guerrettaz that Zoe is a service dog and therefore allowed to  
2 accompany her anywhere the public is allowed on campus. Ms. Guerrettaz then  
3 requested that Plaintiff provide documentation that Zoe is a service dog. Then,  
4 without waiting for Plaintiff to respond, Ms. Guerrettaz asked Plaintiff what  
5 services Zoe provides for her. Plaintiff began to explain the tasks that Zoe  
6 performed, but Defendant's employee yelled "No! No! No!" indicating that she did  
7 not believe Zoe is a service dog. Ms. Guerrettaz then ordered Plaintiff to leave  
8 campus with Zoe. Plaintiff saw that her siblings were distressed by the situation, so  
9 she ignored Ms. Guerrettaz and went to check in with her family. However, the  
10 interaction was extremely humiliating and distressing for Plaintiff. She could not  
11 enjoy the family event like all the other families, and her lunch was overshadowed  
12 by the unnecessary and discriminatory encounter. Despite subsequent  
13 communications with Defendant and pre-litigation attempts to educate Ms.  
14 Guerrettaz after the initial confrontation nothing was done, and no policy or training  
15 changed.

16 2. As a result of Defendant's illegal acts, Plaintiff suffered denial of her  
17 civil rights and suffered physical, mental and emotional damages. Plaintiff still  
18 needs to attend events at Mesa View Elementary to support her siblings who attend  
19 the school, but she does not feel free to do so until Defendant's policies at the Mesa  
20 View Elementary and the Romoland School District are made accessible to disabled  
21 individuals who use service dogs, including revision of its service dog policies,  
22 necessary employee training and/or re-training, and placing appropriate signage on  
23 school district properties. She has brought this lawsuit to force Defendant to change  
24 its discriminatory and illegal policies, and to force Defendant to compensate her for  
25 refusing her entry to the property with her service dog because she is a disabled  
26 person who needs the assistance of her qualified service dog. Plaintiff seeks an  
27 injunction to protect the rights of all disabled persons, including Plaintiff, when  
28 accompanied by a qualified service dog at Romoland School District property.

1           3.     **JURISDICTION:** This Court has jurisdiction of this action pursuant  
2 to 28 USC sections 1331 and 1343. This Court has jurisdiction over the claims  
3 brought under California law pursuant to 28 U.S.C. § 1367.

4           4.     **VENUE:** Venue is proper in this court pursuant to 28 USC  
5 section 1391(b) and is proper because the real property which is the subject of this  
6 action is located in this district and that Plaintiff's causes of action arose in this  
7 district.

8           5.     **INTRADISTRICT:** This case should be assigned to the Eastern  
9 intradistrict because the real property which is the subject of this action is located in  
10 this intradistrict and Plaintiff's causes of action arose in this intradistrict.

11           6.     **PARTIES:** Plaintiff Kelli Thomas is a "qualified" disabled person.  
12 Plaintiff has suffered from severe anxiety since childhood which affects her ability  
13 to leave her leave home and causes her to experience panic attacks. She becomes  
14 claustrophobic in crowds. Plaintiff relies upon her service dog Zoe to assist her by  
15 alerting her when her anxiety and panic levels rise above her normal base levels.  
16 Additionally, when Plaintiff is experiencing a panic attack, Zoe performs either  
17 deep pressure or light pressure therapy on command to assist Plaintiff in calming  
18 down. Plaintiff personally trained Zoe to assist her with the task she performs with  
19 the assistance of professional trainers. Plaintiff and Zoe have trained extensively so  
20 that Zoe can provide Plaintiff with the specific assistance she needs. Plaintiff is a  
21 qualified person with a disability as defined under federal and state law. 42 U.S.C.  
22 § 12102, 29 U.S.C. § 705(9)(B), and California Government Code § 12926(1).

23           7.     Defendant ROMOLAND SCHOOL DISTRICT, is and was at all times  
24 relevant to this Complaint the owner, operator, lessor and/or lessee of the subject  
25 business, property and building located at 27227 Heritage Lake Drive, Menifee,  
26 California, known as Mesa View Elementary. Mesa View Elementary school is  
27 within the Romoland School District.

28           8.     Mesa View Elementary is a place of "public accommodation" subject

1 to the requirements *inter alia* of 42 U.S.C. section 12181(7) of the Americans with  
2 Disabilities Act of 1990, of California Civil Code sections 54 *et seq.*

3 9. **GOVERNMENT CLAIM:** On or about May 4, 2023, Plaintiff made  
4 a claim to the Romoland School District, a government entity, which was expressly  
5 rejected on June 13, 2023.

6 10. **FACTUAL STATEMENT:** Plaintiff Kelli Thomas has been working  
7 with her service dog Zoe for over 2 years. Plaintiff has trained Zoe to serve her  
8 specific needs throughout their relationship.

9 11. Zoe is a working dog; she is not a pet. Plaintiff and Zoe have trained  
10 extensively together, and they supplement that training daily. It is important they  
11 stay together at all times because (a) Zoe provides important services for Plaintiff;  
12 and (b) it is part of the training and bonding requirement that they be together  
13 constantly to maintain their bond. Where Plaintiff goes, Zoe goes.

14 12. On or about November 15, 2022, Plaintiff went to Mesa View  
15 Elementary School to attend the Lunch with a Loved One Event for her two  
16 siblings (a kindergartener and a fourth grader) that attend the school. She arrived  
17 on campus with her service dog Zoe, who was wearing a vest which clearly  
18 identified her as a service dog, around 10:50 am.

19 13. The principal of Mesa View Elementary, Ms. Cyndy Guerrettaz, was  
20 inside the school gate greeting the students' loved ones as they arrived. As Plaintiff  
21 entered the gate, Ms. Guerrettaz stopped her and told Plaintiff that dogs are not  
22 allowed on campus. Plaintiff acknowledged the "no dogs" policy, but informed  
23 Ms. Guerrettaz that Zoe is a service dog and therefore allowed to accompany.  
24 However, Ms. Guerrattaz reiterated that no dogs are allowed on campus. Plaintiff  
25 explained that Zoe has been licensed by the City of Menifee as a service  
26 dog/assistance animal and has been prescribed by her doctor.

27 14. Ms. Guerrettaz then asked Plaintiff to provide documentation that Zoe  
28 is a service dog. Plaintiff was confused by this request since documentation for

1 service animals is not required by the ADA or state access laws. Ms. Guerrettaz  
2 then asked Plaintiff, “What services does your dog provide?” Plaintiff began to  
3 explain the tasks Zoe has been trained to perform for her, including deep and light  
4 pressure therapy, but Ms. Guerrettaz interrupted her explanation and yelled “No!  
5 No! No!” as if those tasks were not valid tasks that a service dog could perform.  
6 She then ordered Plaintiff to leave campus because Zoe was a “liability” that she  
7 could not have on her campus.

8 15. Plaintiff saw that her sibling who is in kindergarten was watching the  
9 altercation with the principal, so she told Ms. Guerrettaz that she was going to put  
10 her things down and settle her sibling down to have lunch. Plaintiff did not want her  
11 sibling to be further upset by her interaction with the principal.

12 16. After Plaintiff had settled her kindergartener, she called Animal  
13 Friends of the Valley which is in charge of service animal licensing to see if they  
14 would speak to Ms. Guerrettaz to confirm that Zoe is a registered service dog.  
15 Plaintiff returned to speak with Ms. Guerrettaz again. Ms. Guerrettaz told Plaintiff  
16 that Zoe is “not a medical service dog.” Plaintiff then put her phone on speaker so  
17 that Ms. Guerrettaz could hear and asked Animal Friends of the Valley to confirm  
18 that Zoe is a registered service dog. They did so and read Zoe’s license number to  
19 Ms. Guerrettaz. Plaintiff then asked the person on the phone to provide Ms.  
20 Guerrettaz with information about the laws surrounding service dogs. Ms.  
21 Guerrettaz refused to listen to them and claimed that she already knew the law.

22 17. Plaintiff then asked Ms. Guerrettaz to refrain from giving her anymore  
23 issues about her service dog. Ms. Guerrettaz told Plaintiff not to speak to her that  
24 way, and she did not offer Plaintiff any resolution or say that Zoe was allowed on  
25 campus.

26 18. Plaintiff returned to the grass to have lunch with her kindergartener,  
27 but the lunch period was over by the time she returned. As a result of Ms.  
28 Guerrettaz’ interference with Plaintiff’s use of her service dog, she missed lunch

1 with her sibling and was constructively denied access to the premises. Despite this  
2 denial, Plaintiff remained on campus to see her other sibling, whose lunch was  
3 starting soon. Plaintiff sat on the grass to wait for her fourth grade sibling, and  
4 called the Romoland School District to complain about the situation. By this point,  
5 Plaintiff was extremely upset and crying. She spoke with Sandra Sanchez in the  
6 Human Resources Department to start the process of filing a complaint about the  
7 incident. Ms. Sanchez told her that John Murray would call her back to discuss the  
8 incident.

9 19. Plaintiff was physically present during lunch with her fourth grader,  
10 but she was crying and extremely upset. She could not be as emotionally present for  
11 her sibling as she would have liked. This caused distress for both Plaintiff and her  
12 sibling.

13 20. When lunch had concluded, Plaintiff returned to her car. She received  
14 a call from John Murray and informed him of the details of her incident. After the  
15 call concluded, Plaintiff was upset and felt she could not drive safely, so Zoe had to  
16 help her calm down with deep pressure therapy before she drove home.

17 21. Since the incident, Plaintiff has suffered from increased anxiety and  
18 panic attacks. She finds it very difficult to go out in public because she is afraid of  
19 having the validity of her service dog questioned in an aggressive manner again.  
20 Further, Plaintiff is fearful of participating in school activities with her siblings at  
21 Mesa View Elementary due to the continued fear of harassment. Plaintiff is unable  
22 to attend events for siblings at Mesa View Elementary until the Defendant  
23 Romoland School District has implemented proper service animal policies and  
24 training of its staff. Plaintiff is deterred from returning to the Mesa View  
25 Elementary until these policies and training are in place.

26 //

27 //

28 //

**FIRST CAUSE OF ACTION:  
 VIOLATION OF TITLE II OF THE AMERICANS WITH DISABILITIES  
 ACT OF 1990  
 (42 USC §§ 12101 *et seq.*)**

22. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the factual allegations contained in Paragraphs 1 through 22, above, and incorporates them herein by reference as if separately repled hereafter.

23. In 1990 Congress passed the Americans with Disabilities Act after finding that laws were needed to more fully protect “some 43 million Americans with one or more physical or mental disabilities; that historically society has tended to isolate and segregate individuals with disabilities;” that “such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem”; that “the Nation’s proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living and economic self-sufficiency for such individuals”; and that “the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous.” 42 U.S.C. § 12101(a).

24. At all times herein mentioned, Plaintiff was entitled to the protections of the “Public Services” provisions of Title II of the ADA, Subpart A, which prohibits discrimination by any public entity as defined by 42 USC section 12131. Pursuant to 42 USC 12132, section 12132 of Title II, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the “services, programs or activities” of a public entity, or be subjected to discrimination by such entity. Plaintiff was at all times relevant herein a qualified individual with a disability for all purposes under the ADA.

25. In violation of Title II of the ADA, Defendant has failed to ensure that individuals with physical disabilities such as the Plaintiff herein are not excluded



1 from “services, programs and activities” at the subject facilities and property. By  
2 reason of Defendant’s failure to remove policy barriers to access at the subject  
3 facilities so as to render them “accessible to and useable by” disabled persons who  
4 use service dogs, despite actual notice of the inaccessible conditions, and by its  
5 policy decisions as above-described, including acts and omissions by any  
6 predecessors in interest, Defendant has discriminated against Plaintiff in violation  
7 of Title II of the ADA and the regulations adopted to implement the ADA. With  
8 relation to damages claimed under Title II of the ADA, each such instance of  
9 discrimination is alleged to have been intentional and/or has been created and  
10 maintained with deliberate indifference to the effect upon Plaintiff and other  
11 similarly disabled persons.

12 26. As a result of such intentional discrimination, in violation of  
13 section 12132 of the ADA, Plaintiff is entitled to the remedies, procedures and  
14 rights set forth in section 505 of the Rehabilitation Act of 1973 (29 USC 794a), as  
15 provided by section 12133 of the ADA.

16 27. On information and belief, to the date of filing of this Complaint,  
17 Defendant has failed to make the facilities and property as described herein  
18 accessible to and usable by physically disabled persons who use service animals, as  
19 required by law, and have failed to adopt policies to assure that disabled persons are  
20 provided full and equal access, including policies and regulations protecting the use  
21 of service dogs in public accommodations.

22 28. Plaintiff requests that an injunction be ordered requiring that  
23 Defendant make all such facilities and properties herein described accessible to and  
24 usable by mobility impaired disabled persons and their service dogs.

25 29. Plaintiff is a qualified individual with a disability as defined in the  
26 Rehabilitation Act and in the Americans with Disabilities Act of 1990.

27 30. The ADA prohibits, among other types of discrimination, “failure to  
28 make reasonable modifications in policies, practices or procedures when such



1 modifications are necessary to afford such goods, services, facilities, privileges,  
 2 advantages or accommodations to individuals with disabilities.” 42 U.S.C. §  
 3 12182(b)(2)(A)(ii).

4 31. Under the “2010 Revised ADA Requirements: Service Animals,” as  
 5 published by the United States Department of Justice, and distributed by the DOJ’s  
 6 Civil Rights Division, Disability Rights Section, “Generally, title II and title III  
 7 entities must permit service animals to accompany people with disabilities in all  
 8 areas where members of the public are allowed to go.” ADA 2010 Revised  
 9 Requirements, [www.ada.gov/service-animals-2010.htm](http://www.ada.gov/service-animals-2010.htm) Further,

10 **Under the ADA, State and local governments, businesses, and**  
 11 **nonprofit organizations that serve the public generally must allow**  
 12 **service animals to accompany people with disabilities in all areas of**  
 13 **the facility where the public is normally allowed to go.**

14 *Ibid.*, emphasis in original.

15 32. Defendant has a policy and practice of denying and restricting access  
 16 to people with service animals.

17 33. On information and belief, as of the date of Plaintiff’s most recent visit  
 18 to Mesa View Elementary on or about November 25, 2022, Defendant continues to  
 19 deny full and equal access to Plaintiff and to discriminate against Plaintiff on the  
 20 basis of her disabilities, thus wrongfully denying to Plaintiff the full and equal  
 21 enjoyment of the goods, services, facilities, privileges, advantages and  
 22 accommodations of Defendant’s premises, in violation of the ADA.

23 34. In passing the Americans with Disabilities Act of 1990 (hereinafter  
 24 “ADA”), Congress stated as its purpose:

25 It is the purpose of this Act

26 (1) to provide a clear and comprehensive national mandate for the  
 27 elimination of discrimination against individuals with disabilities;

28 (2) to provide clear, strong, consistent, enforceable standards addressing  
 discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing

1 the standards established in this Act on behalf of individuals with disabilities;  
2 and

3 (4) to invoke the sweep of congressional authority, including the power to  
4 enforce the fourteenth amendment and to regulate commerce, in order to  
address the major areas of discrimination faced day-to-day by people with  
disabilities.

5 42 USC § 12101(b).

6 35. **DAMAGES:** Damages are available under Title II of the ADA upon a  
7 showing of intentional discrimination. *See* 42 U.S.C. § 12133; 29 U.S.C. §  
8 794a(a)(2); *Ferguson v. City of Phoenix*, 157 F.3d 668, 674 (9<sup>th</sup> Cir. 1998);  
9 *Alexander v. Sandoval*, 531 U.S. 1049, 1517 (2001). In order to prove intentional  
10 discrimination, Plaintiff must show that Defendant acted with “deliberate  
11 indifference” in violating her rights under Title II of the ADA. *Duvall v. County of*  
12 *Kitsap*, 260 F.3d 1124, 1138 (9<sup>th</sup> Cir. 2001).

13 Deliberate indifference requires both knowledge that a harm to a  
14 federally protected right is substantially likely, and a failure to act  
upon that the likelihood. *City of Canton v. Harris*, 489 U.S. 378, 389,  
15 109 S.Ct. 1197, 103 L.Ed.2d 412 (1988) . . . When the plaintiff has  
16 alerted the public entity to his need for accommodation (**or where the**  
**need for accommodation is obvious, or required by statute or**  
**regulation**), the public entity is on notice that an accommodation is  
17 required, and the plaintiff has satisfied the first element of the  
deliberate indifference test.

18 *Id.* 260 F.3d at 1139.

19 36. Defendant had a statutory duty to ensure that its programs are readily  
20 accessible to persons with disabilities who use service dogs such as Plaintiff. 29  
21 C.F.R. § 35.130(b)(7); *Fry v. Napoleon Community Schools*, 137 S.Ct. 743, 749-  
22 750 (2016) (citing *Sullivan v. Vallejo City Unified School Dist.*, 731 F. Supp. 947,  
23 961-962). Defendant refused to allow Plaintiff to enter Mesa View Elementary  
24 with her qualified service dog despite Plaintiff’s clear explanation that Zoe is a  
25 service dog and what services she provides to Plaintiff. The need for  
26 accommodation in this matter is both “clearly obvious” and “required by statute or  
27 regulation,” and therefore meets and likely exceeds the standard for an award of  
28 damages under the deliberate indifference standard. *Duvall*, 260 F.3d at 1139.

1 Further, Defendant was on *actual* notice of the need for accommodation because  
 2 Plaintiff explicitly informed Defendant's employees that she needed an  
 3 accommodation to allow her to enter Mesa View Elementary with her service dog  
 4 due to her disability. Defendant received this information and among the possible  
 5 alternatives available, they then deliberately denied Plaintiff access to the school.

6 37. Defendant's establishment of its discriminatory policy to deny and  
 7 restrict entry to persons with service dogs, and its implementation of such a  
 8 discriminatory policy against Plaintiff, indicate intentional discrimination toward  
 9 Plaintiff and deliberate indifference for her rights and safety. Plaintiff suffered  
 10 damages as above described as a result of Defendant's violations. Damages are  
 11 ongoing based on her deterrence from returning to Mesa View Elementary.

12 WHEREFORE, Plaintiff prays for relief as hereinafter stated.

13 **SECOND CAUSE OF ACTION:**  
 14 **DAMAGES AND INJUNCTIVE RELIEF**  
 15 **FOR DENIAL OF FULL AND EQUAL ACCESS TO PUBLIC**  
 16 **FACILITIES IN A PUBLIC ACCOMMODATION**  
 17 **(Civil Code §§ 54 *et seq.*)**

18 38. Plaintiff re-pleads and incorporates by reference, as if fully set forth  
 19 hereafter, the factual allegations contained in Paragraphs 1 through 37 of this  
 20 Complaint and all paragraphs of the third cause of action, as plead infra,  
 21 incorporates them herein as if separately re-pleaded.

22 39. Under the California Disabled Persons Act (CDPA), people with  
 23 disabilities are entitled to the "full and free use of . . . public buildings, . . . public  
 24 facilities, and other public places." Civil Code § 54(a).

25 40. Civil Code section 54.1(a)(1) further guarantees the right of "full and  
 26 equal access" by persons with disabilities to "accommodations, advantages,  
 27 facilities . . . hotels, lodging places of accommodation, amusement or resort, or  
 28 other places to which the general public is invited." Civil Code § 54.1(c) also  
 specifies that, "individuals with a disability and persons authorized to train service  
 dogs for individuals with a disability, may take dogs, for the purpose of training

1 them as guide dogs, signal dogs, or service dogs in any of the places specified in  
2 subdivisions (a) and (b).”

3 41. Civil Code section 54.2(a) specifically protects the right of “every  
4 individual with a disability” “to be accompanied by a guide dog, signal dog, or  
5 service dog, especially trained for the purpose, in any of the places specified in  
6 Section 54.1.”

7 42. Civil Code section 54.3(b) makes liable “Any person or persons, firm  
8 or corporation who denies or interferes with admittance to or enjoyment of the  
9 public facilities as specified in Sections 54 and 54.1 or otherwise interferes with the  
10 rights of an individual with a disability under Sections 54, 54.1 and 54.2.” This  
11 section also specifies that, “[I]nterfere,” for purposes of this section, includes, but  
12 is not limited to, preventing or causing the prevention of a guide dog, signal dog, or  
13 service dog from carrying out its functions in assisting a disabled person.”

14 43. Defendant is also in violation of California Penal Code section  
15 365.5(b) which states:

16 No blind person, deaf person, or disabled person and his or her specially  
17 trained guide dog, signal dog, or service dog shall be denied admittance  
18 to accommodations, advantages, facilities, medical facilities, including  
19 hospitals, clinics, and physicians’ offices, telephone facilities, adoption  
20 agencies, private schools, hotels, lodging places, places of public  
accommodation, amusement or resort, and other places to which the  
general public is invited within this state because of that guide dog,  
signal dog, or service dog.

21 44. Mesa View Elementary is a public accommodation within the meaning  
22 of the CDPA. On information and belief, Defendant is the owner, operator, lessor  
23 or lessee of the public accommodation.

24 45. Defendant made the decision to knowingly and willfully exclude  
25 Plaintiff and her service dog from its public accommodation and thereby deny  
26 Plaintiff her right of entrance into its public accommodation with her service dog.  
27 As a result of that decision Plaintiff has faced the continuing discrimination of  
28 being barred from entering this public accommodation and place of business based

1 upon Defendant's illegal prohibition of her legally protected use of her service dog.  
2 Plaintiff has continued to suffer denial of access to these facilities, and faces the  
3 prospect of unpleasant and discriminatory treatment should she attempt to return to  
4 these facilities. Plaintiff is unable to return to Romoland School District until she  
5 receives the protection of this Court's injunctive relief, and she has continued to  
6 suffer discrimination on a daily basis since November 15, 2022, all to her statutory  
7 damages pursuant to California Civil Code §§ 54.1, 54.2, and 54.3 and California  
8 Penal Code section 365.5.

9       46. **INJUNCTIVE RELIEF:** Plaintiff seeks injunctive relief to prohibit  
10 the acts and omissions of Defendant as complained of herein which are continuing  
11 on a day-to-day basis and which have the effect of wrongfully excluding Plaintiff  
12 and other members of the public who are physically disabled, including mobility  
13 disabled individuals who require the assistance of service animals, from full and  
14 equal access to these public facilities. Such acts and omissions are the cause of  
15 humiliation and mental and emotional suffering of Plaintiff in that these actions  
16 continue to treat Plaintiff as an inferior and second-class citizen and serve to  
17 discriminate against her on the sole basis that she is a person with disabilities who  
18 requires the assistance of a service animal.

19       47. Plaintiff must return to Mesa View Elementary and possibly other  
20 Romoland School District schools in order to support her siblings during their  
21 education but is deterred from returning to use these facilities, because the lack of  
22 access and the significant policy barriers will foreseeably cause her further  
23 difficulty, discomfort and embarrassment, and Plaintiff is unable, so long as such  
24 acts and omissions of Defendant continue, to achieve equal access to and use of  
25 these public facilities. Therefore, Plaintiff cannot return to the Mesa View  
26 Elementary and its facilities and is deterred from further patronage until these  
27 facilities are made properly accessible for disabled persons, including Plaintiff and  
28 other disabled persons and disabled individuals who require the assistance of a

1 service animal.

2 48. The acts of Defendant have proximately caused and will continue to  
3 cause irreparable injury to Plaintiff if not enjoined by this Court. Plaintiff seeks  
4 injunctive relief as to Defendant's inaccessible policies. As to those of the  
5 Defendant that currently own, operate, and/or lease (from or to) the subject  
6 premises, Plaintiff seeks preliminary and permanent injunctive relief to enjoin and  
7 eliminate the discriminatory practices that deny full and equal access for disabled  
8 persons, and seeks an award of reasonable statutory attorney fees, litigation  
9 expenses and costs.

10 49. Wherefore Plaintiff asks this Court to preliminarily and permanently  
11 enjoin any continuing refusal by Defendant to grant full and equal access to  
12 Plaintiff in the ways complained of and to require Defendant to comply forthwith  
13 with the applicable statutory requirements relating to access for disabled persons.  
14 Such injunctive relief is provided by California Civil Code sections 54.1, 54.2 and  
15 55, and other laws. Plaintiff further requests that the Court award damages  
16 pursuant to Civil Code section 54.3 and other law and attorney fees, litigation  
17 expenses, and costs pursuant to Civil Code sections 54.3 and 55, Code of Civil  
18 Procedure section 1021.5 and other law, all as hereinafter prayed for.

19 50. **DAMAGES:** As a result of the denial of full and equal access to the  
20 described facilities and due to the acts and omissions of Defendant in owning,  
21 operating, leasing, constructing, altering, and/or maintaining the subject facilities,  
22 Plaintiff has suffered a violation of her civil rights, including but not limited to  
23 rights under Civil Code sections 54 and 54.1, and has suffered difficulty,  
24 discomfort and embarrassment, and physical, mental and emotional personal  
25 injuries, all to her damages per Civil Code section 54.3, including general and  
26 statutory damages, as hereinafter stated. Defendant's actions and omissions to act  
27 constitute discrimination against Plaintiff on the basis that she was and is physically  
28 disabled and unable, because of the policy barriers created and/or maintained by the

1 Defendant in violation of the subject laws, to use the public facilities on a full and  
2 equal basis as other persons. The violations have deterred Plaintiff from returning  
3 to Mesa View Elementary and will continue to cause her damages each day these  
4 barriers to access and policy barriers continue to be present.

5 51. At all times herein mentioned, Defendant knew, or in the exercise of  
6 reasonable diligence should have known, that its practices at the subject facilities  
7 violated disabled access requirements and standards, and would have a  
8 discriminatory effect upon Plaintiff and upon other disabled persons who work with  
9 service dogs, but Defendant has failed to rectify the violations, and presently  
10 continues a course of conduct of maintaining policy barriers that discriminate  
11 against Plaintiff and similarly situated disabled persons.

12 52. Further, although it is not necessary for Plaintiff to prove wrongful  
13 intent in order to show a violation of California Civil Code sections 54 and 54.1 or  
14 of the ADA (*see Donald v. Café Royale*, 218 Cal. App. 3d 168, 177 (1990)),  
15 Defendant's behavior was intentional. Defendant was aware and/or were made  
16 aware of its duties to refrain from establishing discriminatory policies against  
17 disabled persons, prior to the filing of this complaint. Defendant's establishment of  
18 its discriminatory policy to deny and restrict entry to persons with service dogs, and  
19 its implementation of such a discriminatory policy against Plaintiff, indicate actual  
20 and implied malice toward Plaintiff and conscious disregard for her rights and  
21 safety.

22 53. **FEES AND COSTS:** As a result of Defendant's acts, omissions, and  
23 conduct, Plaintiff has been required to incur attorney fees, litigation expenses, and  
24 costs as provided by statute, in order to enforce Plaintiff's rights and to enforce  
25 provisions of the law protecting access for disabled persons and prohibiting  
26 discrimination against disabled persons. Plaintiff therefore seeks recovery of all  
27 reasonable attorney fees, litigation expenses, and costs, pursuant to the provisions  
28 of Civil Code sections 54.3 and 55. Additionally, Plaintiff's lawsuit is intended to



1 require that Defendant make its facilities accessible to all disabled members of the  
 2 public, justifying “public interest” attorney fees, litigation expenses and costs  
 3 pursuant to the provisions of California Code of Civil Procedure section 1021.5 and  
 4 other applicable law.

5 54. Plaintiff suffered damages as above described as a result of  
 6 Defendant’s violations. Damages are ongoing based on her deterrence from  
 7 returning to Mesa View Elementary.

8 WHEREFORE, Plaintiff prays for relief as hereinafter stated.

9 **PRAYER**

10 Plaintiff has no adequate remedy at law to redress the wrongs suffered as set  
 11 forth in this Complaint. Plaintiff has suffered and will continue to suffer  
 12 irreparable injury as a result of the unlawful acts, omissions, policies, and practices  
 13 of the Defendant as alleged herein, unless Plaintiff is granted the relief she  
 14 requests. Plaintiff and Defendant have an actual controversy and opposing legal  
 15 positions as to Defendant’s violations of the laws of the United States and the State  
 16 of California. The need for relief is critical because the rights at issue are  
 17 paramount under the laws of the United States and the State of California.

18 WHEREFORE, Plaintiff Kelli Thomas prays for judgment and the following  
 19 specific relief against Defendant:

- 20 1. An order enjoining Defendant, its agents, officials, employees, and all  
 21 persons acting in concert with them:
  - 22 a. From continuing the unlawful acts, conditions, and practices described  
 23 in this Complaint;
  - 24 b. To modify their policies and practices to accommodate service dog  
 25 users in conformity with federal and state law, and to advise Plaintiff  
 26 that her service dog will not be excluded should she desire to enter  
 27 Romoland School District properties;
  - 28 c. That the Court issue preliminary and permanent injunction directing

Defendant as current owners, operators, lessors, and/or lessees and/or their agents of the subject property and premises to modify the above described property, premises, policies and related policies and practices to provide full and equal access to all persons, including persons with physical disabilities; and issue a preliminary and permanent injunction pursuant to ADA section 12188(a) and state law directing Defendant to provide facilities usable by Plaintiff and similarly situated persons with disabilities, and which provide full and equal access, as required by law, and to maintain such accessible facilities once they are provided and to train Defendant's employees and agents in how to recognize disabled persons and accommodate their rights and needs;

d. An order retaining jurisdiction of this case until Defendant has fully complied with the orders of this Court, and there is a reasonable assurance that Defendant will continue to comply in the future absent continuing jurisdiction;

2. An award to Plaintiff of all appropriate damages, including but not limited to statutory damages, general damages in amounts within the jurisdiction of the Court, all according to proof;

3. An award of civil penalty as against Defendant under California Penal Code § 365.5(c);

4. An award to Plaintiff pursuant to 42 U.S.C. § 12205, 29 U.S.C. § 794a, California Civil Code § 54.3, California Code of Civil Procedure § 1021.5, and as otherwise permitted by law, of the costs of this suit and reasonable attorneys' fees and litigation expenses;

5. An award of prejudgment interest pursuant to Civil Code § 3291;

6. Interest on monetary awards as permitted by law; and

7. Grant such other and further relief as this Court may deem just and

1 proper.

2 Date: July 25, 2023

REIN & CLEFTON

3  
4 /s/ Aaron M. Clefton

By AARON M. CLEFTON, Esq.

Attorneys for Plaintiff

KELLI THOMAS

6  
7 **JURY DEMAND**

8 Plaintiff hereby demands a trial by jury for all claims for which a jury is  
9 permitted.

10 Date: July 25, 2023

REIN & CLEFTON

11 /s/ Aaron M. Clefton

12 By AARON M. CLEFTON, Esq.

Attorneys for Plaintiff

KELLI THOMAS